



Serial No.03
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.A.No.28/2024 with
Crl.A.No.66/2025

Reserved on: **08.07.2026**

Pronouncement on: **15.07.2026**

Belting Tyngkra

..... Appellant

Vs.

1. State of Meghalaya represented by the Secretary, Government of Meghalaya, Home (Police) Department, West Jaintia Hills District, Meghalaya.

2. Investigating Officer, Jowai Police Station, Jowai.

..... Respondents

Salbinal Nangbah

Vs.

1. State of Meghalaya, through Superintendent of Police, Jowai, West Jaintia Hills, Meghalaya.

..... Respondent

Coram:

Hon'ble Mrs. Justice Revati Mohite Dere, Chief Justice

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance in Crl.A.No.28/2024:

For the Appellant : Mr. K. Ch. Gautam, Adv with
Ms. C.B. Sawian, Adv

For the Respondent : Mr. S. Sengupta, Addl.PP with
Mr. A.H. Kharwanlang, Addl.PP

Appearance in Crl.A.No.66/2025:

For the Appellant : Ms. S. Nongsiej, Adv

For the Respondent : Mrs. N.G. Shylla, PP with
Mrs. I. Lyngwa, GA



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| i) | Whether approved for reporting in Law journals etc.: | Yes |
| ii) | Whether approved for publication in press: | Yes |
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JUDGMENT: (per the Hon'ble, the Chief Justice)

The aforesaid appeals are being decided together, since the challenge in both the appeals is to the judgment dated 28th March, 2024 and the order of sentence dated 3rd April, 2024, passed by the learned Sessions Judge, West Jaintia Hills District, Jowai, in Sessions Case No.53 of 2014, convicting both the aforesaid appellants for the offence punishable under Section 302 read with Section 34 of the IPC and sentencing them to suffer rigorous imprisonment for life and to pay fine of ₹5000/- each. The learned Judge also recommended compensation of ₹3,00,000/- to the family of the deceased-Prodis Nongbah. This recommendation was forwarded to the District Legal Services Authority, West Jaintia Hills District for consideration.

2. At the outset, we may note that three accused i.e., the aforesaid appellants and one Chalbinal, were charged for the offences punishable under Section 302 read with Section 34 of



the IPC. During the course of the trial, co-accused Chalbinal expired and as such, the trial proceeded only qua the appellants-Salbinal and Belting.

3. The prosecution case in brief is as under;

4. According to the prosecution, Prodis Nangbah (deceased) was murdered by the appellants and co-accused Chalbinal on 6th May, 2014 at around 2:00 am. The FIR was lodged by the sister of Prodis Nangbah, PW1-Smti. Pri Nangbah, with the Jowai Police Station, vide Jowai P.S. Case No.120(5) 14, alleging offences punishable under Section 302 read with Section 34 of the IPC. Admittedly, PW1 is not an eyewitness to the incident. During the course of investigation, the police recorded the statements of PW2-Shri Agreementson Khynriem and PW3-Miss Ihunlang Khynriem, both eyewitnesses to the alleged incident of assault by the accused on their father-brother. The statements of the eyewitnesses were also recorded under Section 164 CrPC. The police collected all evidence qua the accused and after investigation filed charge sheet against the appellants and co-accused Chalbinal in the Court of the learned Magistrate. Since the offence was an offence triable by the Court of Sessions, the case was committed to the Court of Sessions for trial. Charge was



framed against the appellants and co-accused Chalbinal on 5th February, 2015, alleging offence punishable under Section 302 read with Section 34 of the IPC. The appellants pleaded not guilty and claimed to be tried.

5. The prosecution in support of its case, examined as many as nine witnesses, who are as under;

- (1) PW1-Smti. Pri Nangbah (first informant and sister of the deceased)
- (2) PW2-Shri Agreementson Khynriem (child eyewitness and son of the deceased)
- (3) PW3-Miss Ihunlang Khynriem (child eyewitness and daughter of the deceased)
- (4) Dr. Ebiangmi Challam (the doctor who conducted the postmortem);
- (5) PW5-Shri E.S. Nangbah (Panch to the inquest panchanama)
- (6) PW6-Shri Teiborlang Pale (resident of village, who took Prodis to the hospital)
- (7) PW7-Dr. Return Pohshna (attached to Nartiang PHC, who examined Prodis and referred him to Civil Hospital, Jowai)
- (8) PW8-Smti. Morka Khyriem (saw Prodis injured after the incident)
- (9) PW9-Shri Chwalangki Lamare (the investigating officer)

6. Thereafter, the appellants were examined under Section 313 CrPC on 17th February, 2022. The appellant-Salbinal examined



two defence witnesses in support of his defence i.e., DW1-Jeneis Pyrtuh and DW2-Bok Lakot. The learned Judge, thereafter, heard all the learned counsel appearing for the respective sides and passed the impugned judgment of conviction and sentence, as stated in paragraph 1 hereinabove. Hence, these appeals.

7. Mr. Gautam, learned counsel appearing for the appellant-Belting submits that there is no iota of evidence qua the appellant-Belting. He submits that PW2-Shri Agreementson has not named the appellant-Belting and PW3-Ihunlang, although has named the appellant-Belting, has not identified him in court. He submitted that thus the identity of the appellant-Belting has not been proved by the prosecution, inasmuch no Test Identification Parade (TIP) was held nor has appellant-Belting been identified in the dock. He submits that neither any motive is alleged qua the appellant-Belting. He also submits that apart from the aforesaid, there is no other evidence qua the appellant-Belting and as such, the appellant-Belting be acquitted of the offence with which he is charged.

8. Ms. Nongsiej, learned counsel appearing for the appellant-Salbinal submits that the prosecution had failed to show any



motive qua the appellant-Salbinal for him to commit the murder of Prodis (deceased). She submits that the incident had taken place in the night when admittedly, there were no lights in the village. She submits that the witnesses have stated that they identified the appellant-Salbinal in candlelight and as such, in the absence of any other evidence, the same ought not to be believed. She also submits that the ocular evidence of the eyewitnesses is not supported by the medical evidence. She further submits that both the eyewitnesses, being child witnesses, and as such interested witnesses, their evidence needs to be viewed with circumspection. She further submits that the FIR lodged by the sister of the deceased (Prodis), reveals that the same was lodged against unknown persons, and as such, if the incident as alleged had taken place as deposed to by the child witnesses, the name of the appellant-Salbinal, would certainly have found place in the FIR. She further submits that the evidence of the eyewitnesses is not supported by the evidence of PW8. In this view of the matter, she prays that the appellant-Salbinal be acquitted of the offence with which he is charged, for want of adequate evidence qua him.



9. Mr. Sengupta, learned counsel appearing for the prosecution in the appeal filed by the appellant-Belting, is unable to show any material to connect the said appellant with the offence, in particular the evidence of identification of the said appellant by the witnesses, in court.

10. Mrs. Shylla, learned PP appearing for the State in the appeal filed by the appellant-Salbinal states, that the prosecution has proved its case beyond reasonable doubt against the appellant-Salbinal and that the said evidence is in the form of two eyewitnesses, which inspires confidence and is trustworthy. She submits that the prosecution has also proved motive for the appellant to commit the offence.

11. We have perused the evidence with the assistance of the learned counsel appearing for the respective parties. At the outset, we may note that, although initially there were three accused facing prosecution under Section 302 read with Section 34 of the IPC, during course of the trial, since co-accused-Chalbinal expired, the trial proceeded only qua the aforesaid appellants.



12. The evidence qua the appellants is in the nature of ocular evidence i.e., two witnesses, medical evidence and motive.

13. The two eyewitnesses are PW2 and PW3. Both are child witnesses and are the children of the deceased, who were present in the house, when their father-Prodis was assaulted.

14. The law on appreciation of the child witness is no longer res integra.

15. In ***Nivrutti Pandurang Kokate & ors v. State of Maharashtra*** reported in **(2008) 12 SCC 565**, the Court observed;

“There is no rule of practice that in every case the evidence of a child witness has to be corroborated before a conviction can be allowed to stand. It will depend upon the circumstances of the case.”

16. In ***Dattu Ramrao Sakhare v. State of Maharashtra*** reported in **(1997) 5 SCC 341**, it was held as follows: (SCC p.343, para 5);

“A child witness is found competent to depose to the facts and reliable one such evidence could be the basis of conviction. In other words, even in the absence of oath the evidence of a child witness can be considered under Section 118 of the Evidence Act provided that such witness is able to



understand the questions and able to give rational answers thereof. The evidence of a child witness and credibility thereof would depend upon the circumstances of each case. The only precaution which the court should bear in mind while assessing the evidence of a child witness is that the witness must be a reliable one and his/her demeanor must be like any other competent witness and there is no likelihood of being tutored.”

17. In ***Alagupandi alias Alagupandian v. State of Tamil Nadu*** reported in **(2012) 10 SCC 451**, it was held as follows;

“36. It is a settled principle of law that a child witness can be a competent witness provided statement of such witness is reliable, truthful and is corroborated by other prosecution evidence. The Court in such circumstances can safely rely upon the statement of a child witness and it can form the basis for conviction as well. Further, the evidence of a child witness and credibility thereof would depend upon the circumstances of each case. The only precaution which the court should bear in mind while assessing the evidence of a child witness is that the witness must be reliable one and his/her demeanour must be like any other competent witness and that there exists no likelihood of being tutored. There is no rule or practice that in every case the evidence of such a witness be corroborated by other evidence before a conviction can be allowed to stand but as a rule of prudence the Court always finds it desirable to seek corroboration to such evidence from other reliable evidence placed on record. Further, it is not the law that if a witness is a child, his evidence shall be rejected, even if it is found reliable. (Dattu Ramrao Sakhare v. State of Maharashtra and Panchhi v. State of U.P.).

18. It is, thus, evident that a conviction can be based on the sole testimony of child witness, if it is found to be trustworthy,



credible and inspiring confidence. However, it is desirable to seek corroboration. However, that would depend upon the facts and circumstances of each case. Keeping this in mind, we proceed to consider the evidence of the two eyewitnesses, as has come on record. PW2-Shri Agreementson, aged 12 years was administered oath as he was found to be intelligent and capable of deposing. PW2 has deposed that the deceased-Prodis was his father and his mother's name was Mary; that he was the eldest child of his parents and had two younger sisters and one younger brother. PW2 has further deposed that his father was killed in an incident that took place on 5th May, 2014. He has stated that he along with his one sister and brother were in the house with their father, as the youngest sister was taken by his mother to Shillong to purchase medicine for her; and they had a shop in which cigarettes, kwai and other items were sold and that the shop was in the house where they were staying. PW2 has further deposed that at night time on the day of the incident after closing the shop, accused-Chalbinal (expired) and appellant-Salbinal came and asked for cigarettes, however, his father did not open the door; that both the accused said that if he does not open the door, they will kick the door, however, his father refused to open



the door pursuant to which, the accused kicked the door and forcefully entered their house.

19. PW2 has deposed that the house had two rooms, one room was used as a shop and the other room as a bedroom and that the kitchen was outside the house. He has stated that when the accused came and entered their house, he was lying in the bed and was not yet asleep; that he saw the accused entering the house; that appellant-Sal was holding ka wait kti (wait bnoh) and accused Chal (expired) was holding a wait khukri; that his father got up from his bed and apologized to the said accused, however, they assaulted his father with their weapons; that accused-Sal assaulted his father, first by hitting him with ka wait on his head and accused Chal (expired) assaulted his father with a Khukhri on the back of his thigh; that the accused dragged their father out of the house and left his father outside the house and fled from the place in a maruti car; that his father ran towards the road and that the people from the village helped their father and took him to Nartiang Hospital, where he was referred to Shillong Civil hospital. However, since his father expired, he was brought home. PW2 has categorically stated that he knew Chal and Sal, as they



were residing in the same village as theirs. He has identified both, Chal and Sal, as being present in the dock. The court has recorded that the witness has identified Chal and Sal. It is pertinent to note, that PW2 has neither named appellant-Belting nor identified him in dock.

20. A perusal of the cross-examination of PW2 would show that there is no cross-examination with respect to the actual assault as deposed by PW2 qua Chal and Sal and the manner in which the incident took place. To the contrary, the tenor of cross-examination supports the prosecution. The said cross reads thus:

“I was asked by my mother and aunty sister of my father to speak the truth.

Prior to the incident, I know the accused persons as they used to come to come and buy things from our shop. My father and the Accused prior to the incident had no enmity. On that night I was lying awake in my bed while my father was asleep. On that night there was no lights in the village and we light up a candle in our house. When I saw my father being assaulted by the Accused I did not scream out. When my father was dragged out of the house, I did not go and call for help from the neighbours when my father was being dragged out. I was on my bed. The colour of the maruti car in which the Accused fled away was white in colour. I do not remember the colour of the clothes the Accused was wearing as there was no light, but both of them were wearing a normal sweat-shirt.”



21. Thus, from the aforesaid, it appears that having regard to what is deposed by PW2, which fact has not been challenged in cross by PW2, the evidence of PW2 inspires confidence and appears to be trustworthy. There is nothing on record in the cross of PW2 to discredit his testimony nor anything brought on record to show that PW2 had any reason to falsely implicate the accused.

22. The prosecution examined Miss Ihunlang daughter of the deceased, aged 11 years as PW3. The trial court after interacting with PW3 found her to be intelligent and capable of deposing. PW3 has in her evidence stated that the deceased was her father and she was studying in Class-IV at the relevant time. She has stated that the incident took place on 6th May, 2014; that when two people (Chal and Sal) came in the night to their house, as they were running a shop from the house; that they called out and asked to give cigarettes, however, her father who was in the house did not open the door, as the shop was closed; that those people kicked the door open and entered the house; that when the people entered the house, her father woke up from the bed and apologized to them many times saying he did not do



anything; that her father tried to run away but he was assaulted by those people and that they also broke his wrist; that the persons who assaulted her father were Chal and Sal. PW3 has categorically stated that as they were residents of the village, she knew them and that Chal and Sal are brothers. PW3 has further stated that Sal assaulted her father on the head, after which Chal broke her father's wrist and also twisted his neck; she has further stated that after her father came out of the room trying to escape, Belting (appellant) who was standing outside held her father and pushed him and then, all the persons ran away from there pursuant to which, her father was taken to the hospital with the help of the villagers, where he succumbed to the injuries. Again, there is no cross-examination of PW3 with respect to the actual assault deposed to by PW3 in her examination-in-chief. To the contrary, the tenor of the cross-examination, reflects that both the accused were present in the house. There are no denials nor any suggestions to the witness.

23. In the cross-examination, it has come that on that night, she saw two people (Chal and Sal) entering the house; that she knew the accused, as she has seen them earlier and knew their



surnames; that the accused surname was Nangbah; that their father was dragged out of the house; that when the accused fled, they had also come out of the house; that she saw the people fleeing away; that accused-Sal and Chal entered their house and that accused-Belting did not enter the house; that when accused-Chal and Sal entered their house, she did not see accused-Belting standing outside; and that when accused Chal and Sal entered their house, she saw only one person carrying ka wait-bnoh and that person who was holding ka wait-bnoh was Sal (appellant).

24. A perusal of the evidence of both the eyewitnesses, who were child witnesses would show that there is no cross-examination, with respect to the actual incident of assault by accused Chal and Sal, as deposed to by these two witnesses. There are no suggestions, no denials and as such, the evidence of both these witnesses with respect to the actual assault by accused Chal and Sal has gone unchallenged. Their presence nor their identity disputed. Infact, as noted above, the tenor of the cross-examination of both the child witnesses shows an admission of the presence of Chal and Sal, at the scene of occurrence. The reason for entering the house being denial of cigarette and of



kicking and forcibly entering the house has also not been denied or challenged by the accused. In this view of the matter, we find both the child witnesses' evidence to be credible, trustworthy and without blemish and as such, inspiring confidence.

25. The said evidence is also duly corroborated by the evidence of PW7-Dr. Return Pohsnem, who was posted at Nartiang PHC at the relevant time. PW7 in his evidence has deposed that on 6th May, 2014, one patient-Prodis Nangbah from Mynkrem village was brought to PHC at around 3 am. The patient was admitted while in a state of shock i.e., blood pressure was 70/40 and pulse was feeble. On local examination, he found that there was an incised wound in the right hand, measuring 6cm in length, 2cm in breadth and 5cm in depth with excessive bleeding and an incised injury on the forehead, 3cm in length, 1 cm in breadth and 5cm in depth. He has stated that since the patient was in a state of shock, efforts were made to stabilize him and he was referred to the Civil Hospital, Jowai at 3:30 am. He has stated that at 3:50 am, the patient was brought back to PHC, dead, pursuant to which, he informed the police.



26. PW4-Dr. (Mrs.) Ebiangmi Challam, is the doctor who conducted the postmortem examination on the deceased-Prodis has in her evidence stated that on 6th May, 2014, a dead body was brought to the Civil Hospital, Jowai, for postmortem and that she conducted the postmortem on the very same day i.e., 6th May, 2014 at 11:45 am. PW4-Dr. Challam found the following injuries on the dead body:

“Wound:- Laceration on the right hand at the metacarpophalangeal (joint in the palm of the hand). There is a fracture of the bone at the same metacarophalangeal.

Injury in the scalp:- Laceration on the right frontal region. Laceration on the occipital region

Skull:- Skull has a fracture of the occipital bone beneath the injury.

Membrane:- there is fracture of a membrane and the right side of fractures with the presence of blood clot and the brain is intact.

The injuries found on the body of the deceased were ante mortem ini nature.

In my opinion the course of death was due to intracranial hemorrhage resulting from head injury caused by a hand blunt object.

Exhibit 3 is the Post Mortem Report prepared by me and 3(1) is my signature.”



27. The postmortem report is exhibited as Exhibit-3. Thus, from the aforesaid medical evidence, we find that the said evidence duly corroborates the ocular evidence of PW2 and PW3.

28. In view of the aforesaid evidence, we find that the prosecution has proved beyond reasonable doubt that Salbinal was one of the accused who assaulted deceased-Prodis and that the same is borne out by the ocular evidence of PW2 and PW3, duly corroborated by medical evidence.

29. The submission of the learned counsel for the appellant-Salbinal that identification was first time in court ought not to be accepted as proper identification as TIP was not held, needs to be rejected for the following reasons:

(i) that the evidence on record shows that appellant-Salbinal hails from the same village and as such, was known to both the eyewitnesses and there is no challenge to the same, by the appellant-Salbinal;

(ii) that if the accused are known to a witness, TIP is not required. Accused-Salbinal was known to both the



eyewitnesses, as he hailed from the same village and PW2 has categorically identified accused-Salbinal in Court;

(iii) that no doubt there was no light in the village but the evidence of both, PW2 and PW3 shows that the witnesses saw the accused in candlelight. When the accused are known, it is well possible to identify them even in candlelight and;

(iv) that there is also no challenge to the fact, that there was no candlelight in the house.

Thus, there is no merit in the said submission advanced by learned counsel for the appellant-Salbinal.

30. As far as the submission of the learned counsel for the appellant-Salbinal, that PW2 and PW3 are interested witnesses and as such, the possibility of false implication cannot be ruled out, we do not also find any merit in the said submission. At the cost of repetition, we may note that the purpose for entering the house appears to be not giving cigarettes, to the accused, and that the same is not challenged by the appellant-Salbinal. There is nothing brought on record in the cross-examination of PW2



and PW3, to even suggest that there was any animosity between the deceased and the accused, for them to falsely implicate the accused.

31. Considering the manner and where the incident took place, both PW2 and PW3, were natural witnesses and merely because they were present in the house, their evidence cannot be discarded by saying that they were interested witnesses. Their presence at the house was natural, considering the time and place of the incident. Thus, we find the prosecution has proved its case beyond reasonable doubt qua appellant-Salbinal.

32. As far as appellant-Belting is concerned, we find that the prosecution has failed to prove its case beyond reasonable doubt qua appellant-Belting inasmuch as, he was not named by PW2 in his evidence and was not identified in the dock either, by PW2 or PW3. In this view of the matter, the appellant-Belting will have to be acquitted of the offence for which he is convicted and sentenced. Accordingly, we pass the following order;

ORDER

- (i) The appeal filed by Salbinal, being CrI.A.No.66 of 2025, is dismissed and as such, the judgment and order passed by



the learned Sessions Judge in Sessions Case No.53 of 2014 stands confirmed qua appellant-Salbinal.

(ii) As far as, appeal being CrI.A.No.28 of 2024, preferred by appellant-Belting is concerned, the same is allowed and as such, the judgment and order in as much, as it convict appellant-Belting is concerned, the same stands quashed and set aside qua him and as such, he is acquitted of the offence for which he was charged. Appellant-Belting be released forthwith, if not required in any other case. Fine, if any, deposited to be refunded to appellant-Belting.

(iii) As far as the recommendation made to the Secretary, DLSA, West Jaintia Hills District, Jowai by the trial court to award compensation of ₹3 lakhs to the family of deceased-Prodis is considered, the Secretary, DLSA, West Jaintia Hills District, Jowai to submit a report whether any such compensation has been awarded to the family of the deceased-Prodis. The Secretary, DLSA to submit a report to this Court within eight weeks from today.



(iv) **Registry to forward/communicate this order to the Secretary, DLSA, West Jaintia Hills District by e-mail/Fax to enable the Secretary to submit its report.**

33. Both, the appeals stand disposed of on the aforesaid terms.
34. List this appeal for recording compliance on **3rd September, 2026.**
35. All parties to act on the authenticated copy of this order.

(W. Diengdoh)
Judge

(Revati Mohite Dere)
Chief Justice

Meghalaya
15.07.2026
"~~Law~~ DR-PS"